

DEC 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAY BYRON FORD,

Plaintiff - Appellant,

v.

MICHAEL MARTEL,

Defendant - Appellee.

No. 06-16994

D.C. No. CV-02-01693-
DFL/CMK

MEMORANDUM *

Appeal from the United States District Court
for the Eastern District of California
David F. Levi, District Judge, Presiding

Submitted December 20, 2007**

Before: GOODWIN, WALLACE, and HAWKINS, Circuit Judges.

California state prisoner Ray Byron Ford appeals pro se from the district court's summary judgment for defendant in his 42 U.S.C. § 1983 action alleging constitutional violations stemming from a lockdown affecting Muslim inmates.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Morrison v. Hall*, 261 F.3d 896, 900 (9th Cir. 2001), and we affirm.

The district court properly granted summary judgment on Ford's First Amendment claim because Ford did not raise a triable issue as to whether the lockdown was a legitimate action taken by the prison to maintain security or as to whether the lockdown prevented Ford from engaging in religious conduct mandated by his faith. *See Turner v. Safley*, 482 U.S. 78, 89-91 (1987) (outlining criteria for analyzing legitimacy of regulation of religious expression in prison); *Freeman v. Arpaio*, 125 F.3d 732, 736 (9th Cir. 1997) (holding prisoner must show defendant burdened the practice of his religion by preventing him from engaging in conduct mandated by his faith).

The district court properly granted summary judgment on Ford's Equal Protection claim because Ford did not raise a triable issue as to whether Martel was motivated by discriminatory intent in ordering the lockdown. *Id.* at 737 (affirming discriminatory intent is an essential element of an Equal Protection claim).

The district court properly granted summary judgment on Ford's Due Process claim because Ford did not raise a triable issue as to whether the temporary lockdown imposed an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Sandin v. Conner*, 515 U.S. 472, 484 (1995).

Ford's motion for appointment of counsel is denied.

AFFIRMED.